



# CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

## Special City Council Meeting Advisory Board/Commission Applicant Interviews

August 26, 2014

### CALL TO ORDER

The meeting was called to order by Mayor Goettel at 6:40 p.m. in the Babcock Room.

**MEMBERS PRESENT:** Debbie Goettel, Mayor; Suzanne Sandahl; Edwina Garcia; Pat Elliott; and Tom Fitzhenry.

### INTERVIEW OF APPLICANTS

The City Council conducted an interview of the following applicant for appointment to a City Advisory Board and Commission:

Tenzin Dolkar

### ADJOURNMENT

The meeting was adjourned by unanimous consent at 6:47 p.m.

Date Approved: September 9, 2014.

---

Debbie Goettel  
Mayor

---

Theresa Schyma  
Deputy City Clerk

---

Steven L. Devich  
City Manager



# CITY COUNCIL MEETING MINUTES

## Richfield, Minnesota

### Regular Meeting

**August 26, 2014**

#### CALL TO ORDER

The meeting was called to order by Mayor Goettel at 7:00 p.m.

*Members Present:* Debbie Goettel, Mayor; Sue Sandahl; Pat Elliott; Edwina Garcia; and Tom Fitzhenry.

*Staff Present:* Steven L. Devich, City Manager; John Stark, Community Development Director; Jim Topitzhofer, Recreation Services Director; Mike Eastling, Public Works Director; Jay Henthorne, Acting Public Safety Director; Melissa Poehlman, City Planner; Mary Tietjen, City Attorney; and Theresa Schyma, Deputy City Clerk.

#### OPEN FORUM

None.

#### PLEDGE OF ALLEGIANCE

Mayor Goettel led the audience in the Pledge of Allegiance.

#### APPROVAL OF MINUTES

M/Fitzhenry, S/Garcia to approve the minutes of the (1) Special Concurrent City Council and Planning Commission Worksession of July 22, 2014 and (2) Regular City Council Meeting of July 22, 2014.

Motion carried 5-0.

<b>Item #1</b>	<b>COUNCIL DISCUSSION</b> <ul style="list-style-type: none"><li>• City Council attendance at the National League of Cities Congress of Cities in Austin, TX, November 18-22, 2014</li><li>• Hats Off to Hometown Hits</li></ul>
----------------	---

The City Council consensus was to have Mayor Goettel attend the 2014 National League of Cities Congress of Cities.

Public Works Director Eastling discussed the 5-Year Street Reconstruction Plan and the issuance of street reconstruction bonds for 2015-2016 projects. The street reconstruction plan is designed to anticipate street reconstruction expenditures and schedule them over a five-year period so they may be purchase din the most efficient and cost-effective manner. He also announced the public hearing scheduled for September 23.

Council Member Garcia announced the business fair at Richfield High School on September 13.

Council Member Garcia announced Open Streets at PennFest on September 21.

Council Member Sandahl announced the annual Fall Festival at the Church of St. Peter on October 4.

Council Member Sandahl announced the Richfield Foundation Wine, Craft Beer and Cheese Tasting Event on October 9.

Council Member Fitzhenry reported on the success of the Urban Wildland Half Marathon and 5K.

Council Member Elliott commented on the recent "swatting" event that happened recently in Richfield and the amazing response and follow-up with the victims by the Richfield Police Department.

<b>Item #2</b>	<b>COUNCIL APPROVAL OF AGENDA</b>
----------------	-----------------------------------

Mayor Goettel noted that Item #9 is a public hearing and therefore would be moved to Item #7. The subsequent items were re-numbered accordingly.

M/Sandahl, S/Fitzhenry to approve the agenda as amended.

Motion carried 5-0.

<b>Item #3</b>	<b>CONSENT CALENDAR</b>
----------------	-------------------------

- A. Consideration of the approval of a contract with Alpha Video & Audio, Inc. to install audio/visual upgrades in the Bartholomew and Heredia rooms, of the Richfield Municipal Center, in the amount of \$41,744 S.R. No. 134
- B. Consideration of the approval of a temporary on-sale intoxicating liquor license for the Church of St. Peter, 6730 Nicollet Avenue South, for their annual Fall Festival scheduled to take place on October 4, 2014 S.R. No. 135
- C. Consideration of the approval of a temporary on-sale intoxicating liquor license for the Richfield Foundation for their Wine, Craft Beer and Cheese Tasting event to be held October 09, 2014 S.R. No. 136
- D. Consideration of the approval of setting a public hearing to be held on September 23, 2014, for the consideration of a new on-sale wine license for Last Call Operating Co II., Inc. d/b/a Champps Americana, located at the Ice Arena 636 East 66th Street S.R. No. 137
- E. Consideration of the approval of Minnesota Department of Transportation lease agreement No. 27710 with Amendment #3 for continued use of excess land along I-494 next to Best Buy Campus for continued use as a parking lot and transit station S.R. No. 138
- F. Consideration of the approval of the first reading of an ordinance amending Subsections 547.05, Subdivision 4; and Subsection 547.11 related to the consideration of variance applications S.R. No. 139

M/Goettel, S/Sandahl to approve the Consent Calendar.

Motion carried 5-0.

<b>Item #4</b>	<b>CONSIDERATION OF ITEMS, IF ANY, REMOVED FROM THE CONSENT CALENDAR</b>
----------------	--

None.

<b>Item #5</b>	<b>PUBLIC HEARING TO CONSIDER THE ISSUANCE OF NEW ON-SALE WINE AND 3.2 PERCENT MALT LIQUOR LICENSES FOR HENRY THOU D/B/A RED PEPPER CHINESE RESTAURANT, 2910 WEST 66TH STREET S.R. NO. 140</b>
----------------	--

Mayor Goettel presented Staff Report No. 140.

Henry Thou, owner of Red Pepper Chinese Restaurant, 2910 West 66<sup>th</sup> Street, was available for questions.

M/Fitzhenry, S/Sandahl to close the public hearing.

Motion carried 5-0.

M/Goettel, S/Sandahl to approve the issuance of new on-sale wine and 3.2 percent malt liquor licenses for Henry Thou d/b/a Red Pepper Chinese Restaurant, 2910 West 66th Street.

Motion carried 5-0.

<b>Item #6</b>	<b>PUBLIC HEARING AND CONSIDERATION OF A RESOLUTION REGARDING AN AMENDED CONDITIONAL USE PERMIT AND A VARIANCE TO ALLOW CONSTRUCTION OF A SOCCER FIELD AND ACCESSORY STRUCTURES AT AN EXISTING EDUCATIONAL FACILITY AT 7450 PENN AVENUE S.R. NO. 141</b>
----------------	--

Council Member Fitzhenry presented Staff Report No. 141.

M/Goettel, S/Fitzhenry to close the public hearing.

Motion carried 5-0.

Council Member Sandahl questioned if there was any concern for the side of the field along Penn Avenue.

Community Development Director Stark responded that the school is amendable to adding netting along the Penn Avenue side if there are any issues.

M/Fitzhenry, S/Goettel that the following resolution be adopted and that it be made part of these minutes:

RESOLUTION NO. 10950

RESOLUTION APPROVING AN AMENDMENT TO THE CONDITIONAL USE PERMIT  
AND A VARIANCE TO ALLOW CONSTRUCTION OF A SOCCER FIELD AND  
ACCESSORY STRUCTURES AT AN EXISTING EDUCATIONAL FACILITY  
AT 7450 PENN AVENUE

Motion carried 5-0. This resolution appears as Resolution No. 10950.

<b>Item #7</b>	<b>PUBLIC HEARING AND CONSIDERATION OF RESOLUTIONS FOR AN AMENDED CONDITIONAL USE PERMIT AND A VARIANCE REGARDING A 22.6-FOOT FRONT BUILDING SETBACK AND REDUCTION IN REQUIRED PARKING, AND AN APPEAL OF A STAFF DETERMINATION THAT AN ODOR CONTROL SYSTEM IS REQUIRED AS A CONDITION OF ADDING CERTAIN COMMERCIAL COOKING EQUIPMENT AT 6736 PENN AVENUE S.R. NO. 144</b>
----------------	---

Council Member Elliott presented Staff Report No. 144.

Community Development Director Stark stated that the two issues that need to be addressed are parking and odor control. In regards to parking, the proposed addition increases the total occupancy of the building and the applicant is still short six parking spaces. The Planning Commission recommended approval regarding parking since this is a recurring theme on Penn Avenue and to have staff work to modify the City Code to help alleviate this issue.

Community Development Director Stark continued that the odor control issue is being triggered by the new equipment that the applicant wants to install including deep fryers and griddle fryers. He further stated that staff is working within the guidelines set by the City Council and that if there were a change in policy that staff would need to be able to apply and enforce this new direction with all businesses. The applicant has been offered some options but has not been responsive.

City Manager Devich provided some history on the odor control policy. He further stated that until staff is told by the City Council to take a different direction then staff will continue to follow the policy for consistency. He continued that several restaurants have recently been required to install odor control equipment based on this policy. If there were a policy change it should be fair and consistent with regards to other restaurants in the community and the standards that those restaurants have been required to maintain.

Council Member Fitzhenry asked if there have been any current complaints from residents with the business.

Community Development Director Stark responded that, to his knowledge, there have not been any complaints from residents.

Steven Hurvitz, 7001 Morgan Avenue, stated he has never noticed odors from the business and spoke in support of the applicant and the proposed expansion of the business.

Edward Noonan, Noonan Construction, 5400 France Avenue South, discussed the proposed expansion and spoke in support of the business owner and the major investment in Richfield.

Community Development Director Stark stated that the parking issue is related to square footage and not by number of seats.

Community Development Director Stark reiterated that the only thing that triggered the need for odor control equipment is the addition of certain types of cooking equipment like deep fryers and griddle fryers. If the current equipment was staying there would be no need for odor control equipment.

Angie Shaefbauer, President of the Richfield Chamber of Commerce, 6601 Lyndale Avenue, spoke in support of the business owner and proposed expansion. She further encouraged the City Council to look at the odor control policy again.

M/Goettel, S/Sandahl to close the public hearing.

Motion carried 5-0.

Council Member Elliott stated he has never noticed odors from the business. He continued that some of these issues tonight are recurring themes on Penn Avenue and nothing has been done about them since 1985.

Council Member Elliott stated that the restaurants that were recently required to install odor control equipment were not comparable to Fireside Pizza. He supports a business owner who wants to invest in his business and keep it in Richfield. He believes that the City Council needs to give staff the tools that help businesses invest in their businesses and their community by changing this policy.

Council Member Fitzhenry suggested a grandfather clause since this is an existing business that is not going through a radical change. He believes the business is trying to do the right thing since there have never been any complaints.

Community Development Director Stark stated that the City Council could change the policy to state that pre-existing restaurants are exempted.

Mayor Goettel questioned how the policy could be enforced if there was a requirement to add odor control equipment after the fact if there were complaints.

Council Member Sandahl stated her biggest concern is that she does recall the issues that originally triggered the odor control policy and that the City Council recently required other businesses to install odor control equipment. However, she is open to consider that pre-existing restaurants are exempted.

City Attorney Tietjen stated that if the City Council would like to change the policy that it would be advantageous for the City Council to look at this issue further and come up with findings in case this issue arises again.

Council Member Elliott expressed concern with a delay in approving the applicant's proposed expansion.

M/Garcia, S/Sandahl to table the discussion regarding the applicant's appeal of a staff determination that an odor control system is required as a condition of adding certain commercial cooking equipment at 6736 Penn Avenue to allow the city attorney time to work with staff to address odor control issues and craft a new policy and report back to the Council at the Regular City Council Meeting on September 9.

Council Member Elliott disagrees with the suggestion to table the applicant's request.

Motion carried 3-2. (Elliott and Fitzhenry opposed)

M/Goettel, S/Sandahl that a resolution be adopted granting approval of a conditional use permit and a setback variance for a building addition at 6736 Penn Avenue:

Motion carried 4-0. (Council Member Elliott did not participate in the vote)

M/Goettel, S/Fitzhenry to approve a variance to allow a reduction in required parking at 6736 Penn Avenue.

Council Member Sandahl inquired as to whether or not the applicant has asked other nearby businesses for parking accommodations for his staff.

Community Development Director Stark responded that they have asked the applicant and not received an answer.

Mayor Goettel noted that the applicant had already left the meeting so the Council would not receive an answer tonight.

Motion carried 4-0. (Council Member Elliott did not participate in the vote)

<b>Item #8</b>	<b>CONSIDERATION OF A RESOLUTION RESTRICTING PARKING ON BOTH SIDES OF PORTLAND AVENUE BETWEEN 77TH STREET AND 66TH STREET S.R. NO. 142</b>
----------------	--

Council Member Garcia presented Staff Report No. 142.

M/Garcia, S/Sandahl that the following resolution be adopted and that it be made part of these minutes:

RESOLUTION NO. 10953

RESOLUTION FOR PARKING RESTRICTIONS ON PORTLAND AVENUE (COUNTY STATE AID HIGHWAY 35) FROM 66TH STREET TO 77TH STREET

Motion carried 4-0. (Council Member Elliott did not participate in the vote) This resolution appears as Resolution No. 10953.

<b>Item #9</b>	<b>CONSIDERATION OF A RESOLUTION GRANTING APPROVAL OF A MAJOR AMENDMENT TO THE FINAL DEVELOPMENT PLAN AND CONDITIONAL USE PERMIT FOR THE LYNDAL STATION PLANNED UNIT DEVELOPMENT AT 6501-6545 LYNDAL AVENUE S.R. NO. 143</b>
----------------	--

Council Member Sandahl presented Staff Report No. 143.

Community Development Director Stark discussed the proposed changes. He also stated the applicant is open to doing odor mitigation in the trash room.

David Bergstrom, Lyndal Station LLC, stated that Caribou Coffee and MyBurger will be the new businesses at Lyndal Station.

M/Sandahl, S/Fitzhenry that the following resolution be adopted and that it be made part of these minutes:

RESOLUTION NO. 10954

RESOLUTION APPROVING AN AMENDMENT TO THE FINAL DEVELOPMENT PLAN AND CONDITIONAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT AT 6501-6545 LYNDAL AVENUE (LYNDAL STATION)

Motion carried 4-0. (Council Member Elliott did not participate in the vote) This resolution appears as Resolution No. 10954.

<b>Item #10</b>	<b>CONSIDERATION OF AN APPOINTMENT TO A CITY ADVISORY COMMISSION S.R. NO. 145</b>
-----------------	---

Council Member Sandahl presented Staff Report No. 145.

M/Sandahl, S/Fitzhenry to appoint the following person to a City Advisory Commission as a youth representative:

**FRIENDSHIP CITY COMMISSION**

Name  
Tenzin Dolkar

Term Expires  
August 31, 2015

Motion carried 4-0. (Council Member Elliott did not participate in the vote)

<b>Item #11</b>	<b>CITY MANAGER'S REPORT</b>
-----------------	------------------------------

City Manager Devich stated he visited the site of the former City garage and mortuary progress is being made with the demolition.

<b>Item #12</b>	<b>CLAIMS AND PAYROLLS</b>
-----------------	----------------------------

M/Garcia, S/Sandahl that the following claims and payrolls be approved:

<b>U.S. Bank</b>	<b>08/12/14</b>
A/P Checks: 233165-233670	\$ 1,902,807.80
Payroll: 103239-103617; 42176 - 42177	\$ 611,382.43
TOTAL	\$ 2,514,190.23

<b>U.S. Bank</b>	<b>08/26/14</b>
A/P Checks: 233671-234025	\$ 895,682.41
Payroll: 103618-103989; 42178 - 42181	\$ 581,918.87
TOTAL	\$ 1,477,601.28

Motion carried 4-0. (Council Member Elliott did not participate in the vote)

**OPEN FORUM**

None.

**ADJOURNMENT**

The City Council meeting was adjourned by unanimous consent at 8:37 p.m.

Date Approved: September 9, 2014

\_\_\_\_\_  
Debbie Goettel  
Mayor

\_\_\_\_\_  
Theresa Schyma  
Deputy City Clerk

\_\_\_\_\_  
Steven L. Devich  
City Manager